

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x

CARLOS VIGUERA,

DECLARATION

Plaintiff, 08 Civ 3807 (AKH)

- against -

THE NEW YORK CITY HEALTH AND HOSPITAL
CORPORATION and ANA BLANCO,

Defendants.

----- x

KAMI Z. BARKER declares, pursuant to 28 U.S.C. § 1746 and subject to the penalties of perjury, that the following is true and correct:

1. I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendants, in the above-captioned action. I submit this declaration to place before the Court certain documents referred to in defendants' motion to dismiss. These documents may be considered on this motion to dismiss because they contain information of which the Court may take judicial notice, or are matters of public record, or contain information of which plaintiff had in their possession or had knowledge of and upon which they relied in bringing action.

2. Annexed hereto as Exhibit A is plaintiff's 2004 State Division of Human Rights Charge of Discrimination;

3. Annexed hereto as Exhibit B is the State Division of Human Rights' Finding of No Probable Cause, dated March 31, 2006;

4. Annexed hereto Exhibit C is the United States Equal Employment Opportunity Commission's Decision, dated May 23, 2006;

5. Annexed hereto as Exhibit D is plaintiff's December 6, 2006 United States Equal Employment Opportunity Commission Charge of Discrimination;

6. Annexed hereto as Exhibit E is plaintiff's right-to-sue letter dated May 31, 2007;

7. I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
June 27, 2008



KAMI Z. BARKER

EXHIBIT “A”

STATE OF NEW YORK: EXECUTIVE DEPARTMENT
STATE DIVISION OF HUMAN RIGHTS

EXEC. LAW ART. 15
SDHR NO:
9S-E-OS-04-7943982-E

(State Division of Human Rights on the Complaint of)

Carlos M. Viguera

COMPLAINANT

- against -

N.Y.C. Health and Hospitals
Corporation, Bellevue Hospital Center
and Maria del Pilar Ruiz
(Coordinating Manager) and Edie
Coleman (Director) as Aider and
Abettors

RESPONDENT

TITLE VII: Federal Charge No: 16GA409174

I, Carlos M. Viguera, residing at 1020 Grand Concourse, Bronx, NY 10460, Tel. No. (718) 293-8976, (718) - charge the above-named respondent whose address is First Ave & 27 th St New York, NY 10016 Tel. No. (212) 562-6227 with an unlawful discriminatory practice relating to Employment in violation of Article 15 of the Executive Law of the State of New York (Human Rights Law) because of Opposing Discrimination and Sex.

Date most recent or continuing discrimination took place 01/29/04.

The particulars are:

1. I am male, I was sexually harassed and I was discriminated because I Opposed Discrimination.

2. I worke for the Respondent Sr. Health Care Program Planning Analyst from May 1989 to Present. My time and attendance as well as my work performance were satisfactory.

3. On or about January 2003 and thereafter, Respondent's Coordinator Manager Maria del Pilar Ruiz began to sexually harass me. The sexual harassment includes but was not limited to Respondent's Coordinator Ruiz would ask me to go to her home to eat salmon, she ask me to wait for her after works to socialize. She would stand next to me and move her body in a provocative manner. I tried to ignore her for the longest just because she was my boss.

4. On January 15, 2004, I was in the restroom undressed, doing my personal need, and Ms Ruiz, opened the door of the restroom and entered inside to call me for performance evaluation session with

Complaint: Title VII (INT.2) (1 of 2)

/rga
01/30/04

Carlos
Viguera
Threat
An act

SDHR NO: 9S-E-OS-04-7943982-8

FEDERAL CHARGE NO: 16GA409174

Edie Coleman, Director of Grants Reporting Unit. I complained to Ms Coleman about Ms Ruiz sexual behaviors to no avail. I do not know how Ms Ruiz managed to open the door from the outside. However, the door could be easily open from the outside with a coin.

5. Since I complained to Ms Coleman about Ms Ruiz sexual behaviors, Ms Ruiz began to question the quality of my daily work production. I never have problems with my work performance in the past. I believe that the sole reason why Mr Ruiz is attacking my work performance is because I objected to her sexual advances.

6. Based on the foregoing, I charge the above named respondent with an unlawful discriminatory practice related to employment by denying me equal terms, conditions and privileges of employment because I Opposed discrimination and Sex in violation of the New York Human Rights Law, Section 296.

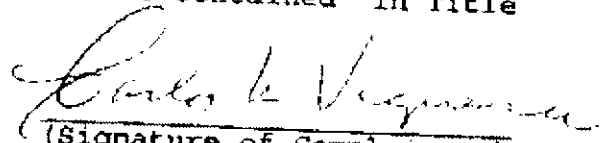
Complaint: Title VII (INT.2) (Supplemental)
/rga
01/30/04

SDHR NO: 9S-E-OS-04-7943982-E

FEDERAL CHARGE NO: 16GA409174

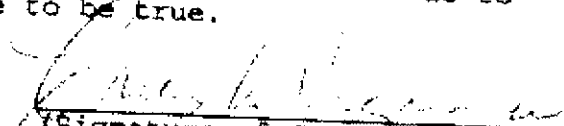
" I have not commenced any other civil or criminal action, nor do I have an action pending before any administrative agency under any other law of this state based upon this same unlawful discriminatory practice."

I also charge the above-named respondent(s) with violating Title VII of the Civil Rights Act of 1964, as amended (covers race, color, creed, national origin, sex relating to employment) and hereby authorize SDHR to accept this verified complaint on behalf of EEOC subject to the statutory limitations contained in Title VII.

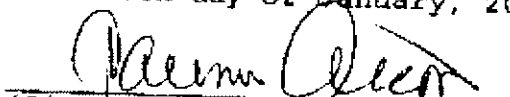

(Signature of Complainant)

STATE OF NEW YORK)
COUNTY OF Kings) S:

Carlos M. Viguera, being duly sworn, deposes and says: that he/she is the complainant herein; that he/she has read (or had read to him/her) the foregoing complaint and knows the content thereof; that the same is true of his/her own knowledge except as to the matters therein stated on information and belief; and that as to those matters, he/she believes the same to be true.


(Signature of Complainant)

Subscribed and sworn to before me
this 30th day of January, 2004


(Signature of Notary Public)

2007

Complaint: Title VII (INT.2) (2 of 2)
/rga
01/30/04

EXHIBIT “B”

STATE DIVISION OF HUMAN RIGHTS
STATE OF NEW YORK : EXECUTIVE DEPARTMENT

STATE DIVISION OF HUMAN RIGHTS
on the Complaint of

CARLOS M. VIGUERA

Complainant

v.

N.Y.C. HEALTH AND HOSPITALS
CORPORATION, BELLEVUE HOSPITAL CENTER
AND MARIA DEL PILAL RUIZ (COORDINATING
MANAGER) AND EDIE COLEMAN (DIRECTOR)
AS AIDER AND ABETTERS

Respondent

DETERMINATION AND
ORDER AFTER
INVESTIGATION

Case No.
7943982

Federal Charge No. 16GA409174

On 1/30/2004, Carlos M. Viguera filed a verified complaint with the State Division of Human Rights charging the above-named respondent with an unlawful discriminatory practice relating to employment because of sex, opposed discrimination/retaliation in violation of the Human Rights Law of the State of New York.

After investigation, and following opportunity for review of related information and evidence by the named parties, the Division of Human Rights has determined that there is ~~NO~~ **PROBABLE CAUSE** to believe that the respondent has engaged in or is engaging in the unlawful discriminatory practice complained of. This determination is based on the following:

The Complainant, a male Program Planning Analyst since May 1989, alleges that he was sexually harassed by one female manager during his employment. Complainant alleges that since January 2003, Ms. Maria Del Pilar Ruiz would ask him to go to her home to eat salmon, she asked him to wait for him after work to socialize, would stand next to him and move her body in a provocative manner. On January 2004, he was in the restroom undressed taking care of his personal needs when Ms. Ruiz opened the door of the restroom and entered inside to call him for performance evaluation session with Director Coleman. He complained to Ms. Coleman about Ruiz's sexual behaviors to no avail. Complainant claims after he complained to Ms. Coleman about the sexual harassment, Ms. Ruiz would question the quality of his work, when previously she had no problem. Ms. Ruiz also physically assaulted Complainant by punching his back at work.

Determination: Dismissal No Probable Cause
SDHR Case No. 7941992

Carlos M. Vignera V. N.Y.C. Health And Hospitals Corporation, Bellevue
Hospital Center And Maria Del Pilar Ruiz (Coordinating Manager) And Edie
Coleman (Director) As Aider And Abettors

Respondent denies Complainant claims of sexual harassment and retaliation and avers that its treatment of the Complainant is due to lawful business related issues.

The evidence gathered during the course of the investigation of the instant complaint is not sufficient to support the complainant's allegations that he was sexually harassed and retaliated against for complaining.

The complainant mentions various incidents that he claims are evidence of this alleged sexual harassment by Ms. Ruiz. Even assuming arguendo that the various alleged incidents mentioned above did occur as indicated by the complainant, they do not constitute severe and pervasive behavior and therefore do not rise to the level required by the statute.

The investigation revealed no information to support that other allegations of sexual harassment other than the incident when the alleged harasser went into the bathroom to find complainant. The evidence shows that the bathroom in question is a unisex bathroom used by all employees in the section. The evidence gathered suggests that at the time of the incident, the alleged harasser was looking for the complainant to remind him of a meeting where his performance was being reviewed by Ms. Coleman and Ruiz. The complainant's view that this was done to sexually harass him is not supported by the evidence. Complainant also alleges that on one occasion, Ms. Ruiz entered his office and "moved her body in a provocative manner" as further evidence of this alleged sexual harassment. This occurred within the confines of the complainant's office and there are no witnesses to this alleged conduct. The complainant continues by alleging that Ms. Ruiz invited him to her house to "eat salmon" as further evidence of this sexual harassment. Ms. Ruiz explained that on one occasion when she was having lunch with the complainant, he ordered salmon and she then told him that she did not eat salmon unless she cooked it herself and that one day she would cook it at her home and invite the complainant to try it.

The record shows that prior to the complainant filing the instant complaint alleging sexual harassment he was already having performance problems. The record also shows that prior to the instant complaint and after the acts of sexual harassment are alleged to have occurred; the complainant filed a

Determination: Dismissal No Probable Cause
SDHR Case No. 7943982

Carlos M. Viguera V. N.Y.C. Health And Hospitals Corporation, Bellevue
Hospital Center And Maria Del Pilar Ruiz (Coordinating Manager) And Edie
Coleman (Director) As Aider And Abettors

discrimination complaint charging the same individuals with discriminating against him because of his age, sex, national origin, race and retaliation for filing an internal complaint. In his initial complaint, the complainant did not mention sexual harassment. A reasonable person may be obligated to conclude that it is highly improbable that someone asserting all these named bases would fail to include sexual harassment. Complainant's explanation that he was afraid that no one would believe him because he is a man; the record support that the complainant is very vocal when defending what he believes are wrongs done to him.

The complainant also charges that Ms. Ruiz "punched" him either in his ribs or his back. Again, this occurred in his office where there were no witnesses to the alleged act. The record shows that after this alleged incident, the complainant summoned the police who declined to pursue the charges. The complainant then filed a complaint against the police officer with the Civilian Review Board.

The record also shows that the complainant was previously suspended for performance issues and this suspension was upheld by the trier of facts in a Step II grievance. During the hearing there was testimony to the effect that others had to complete some of the complainant's work. Witness Yesenia Torres admitted that she was given some of complainant's work to finish when the complainant could not. This witness also stated that the complainant had confided to her that he thought that Ms. Ruiz "like him more than as a friend." Although the complainant appears to allege that he did not, the evidence adduced support that prior to Ms Ruiz being promoted, they would socialize by going out to lunch together. The witness also stated that the complainant was not an accountant, but an auditor and when he was transfer too the unit he did not have accounting experience.

The respondent has advanced non-discriminatory, business related reasons for the actions taken against the complainant. Such reason is not found to be a pretext for the respondent to discriminate against the complainant. The Complainant continues to work for the respondent.

The complaint is therefore ordered dismissed and the file is closed.

Determination; Dismissal No Probable Cause
SDHR Case No. 7941982
Carlos M. Viguera V. N.Y.C. Health And Hospitals Corporation, Bellevue
Hospital Center And Maria Del Pilar Ruiz (Coordinating Manager) And Edie
Coleman (Director) As Aider And Abettors

PLEASE TAKE NOTICE that any party to this proceeding may appeal this Determination to the New York State Supreme Court in the County wherein the alleged unlawful discriminatory practice took place by filing directly with such court a Notice of Petition and Petition within sixty (60) days after service of this Determination. A copy of this Notice and Petition must also be served on all parties including General Counsel, State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458. DO NOT FILE THE ORIGINAL NOTICE AND PETITION WITH THE STATE DIVISION OF HUMAN RIGHTS.

PLEASE TAKE FURTHER NOTICE that a complainant who seeks state judicial review and who receives an adverse decision therein, may lose his or her right to proceed subsequently in federal court by virtue of Kremer v. Chemical Construction Co., 456 U.S. 461 (1982).

Your charge was also filed under Title VII of the Civil Rights Act of 1964. Enforcement of the aforementioned law(s) is the responsibility of the U.S. Equal Employment Opportunity Commission (EEOC). You have the right to request a review by EEOC of this action. To secure review, you must request it in writing, within 15 days of your receipt of this letter, by writing to EEOC, New York District Office, 33 Whitehall Street, 5th Floor, New York, New York 10004-2112. Otherwise, EEOC will generally adopt our action in your case.

Dated: 3/3/06
Brooklyn, New York

STATE DIVISION OF HUMAN RIGHTS

By:

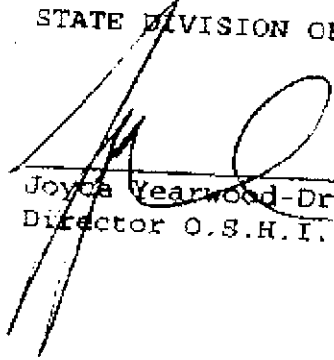

Joyce Yearwood-Drury
Director O.S.H.I.

EXHIBIT “C”

EEOC Form 161 (3-99)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Carlos M. Viguera
1020 Grand Concourse
Bronx, NY 10460

From: New York District Office - 520
33 Whitehall Street
5th Floor
New York, NY 10004



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

160-2004-09174

Holly M. Woodyard,
Investigator

(212) 336-3843

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statute.
- ☐ Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- ☐ Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- ☐ While reasonable efforts were made to locate you, we were not able to do so.
- ☐ You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.
- ☐ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☒ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

Enclosures(s)

Spencer H. Lewis, Jr.
Director

5/23/08

(Date Mailed)

cc: N.Y.C. HEALTH AND HOSPITALS CORP
125 Worth St
Attn: Shirley Facay
New York, NY 10018

STATE DIVISION OF HUMAN RIGHTS
STATE OF NEW YORK : EXECUTIVE DEPARTMENT

STATE DIVISION OF HUMAN RIGHTS
on the Complaint of

CARLOS M. VIGUERA

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N.Y.C. HEALTH AND HOSPITALS
CORPORATION, BELLEVUE HOSPITAL CENTER
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Respondent

DETERMINATION AND
ORDER AFTER
INVESTIGATION

Case No.
7943982

Federal Charge No. 16GA409174

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After investigation, and following opportunity for review of related information and evidence by the named parties, the Division of Human Rights has determined that there is ~~PROBABLE CAUSE~~ to believe that the respondent has engaged in or is engaging in the unlawful discriminatory practice complained of. This determination is based on the following:

The Complainant, a male Program Planning Analyst since May 1989, alleges that he was sexually harassed by one female manager during his employment. Complainant alleges that since January 2003, Ms. Maria Del Pilar Ruiz would ask him to go to her home to eat salmon, she asked him to wait for him after work to socialize, would stand next to him and move her body in a provocative manner. On January 2004, he was in the restroom undressed taking care of his personal needs when Ms. Ruiz opened the door of the restroom and entered inside to call him for performance evaluation session with Director Coleman. He complained to Ms. Coleman about Ruiz's sexual behaviors to no avail. Complainant claims after he complained to Ms. Coleman about the sexual harassment, Ms. Ruiz would question the quality of his work, when previously she had no problem. Ms. Ruiz also physically assaulted Complainant by punching his back at work.

Determination: Dismissal No Probable Cause
SDHR Case No. 7943982

Carlos M. Viguera V. N.Y.C. Health And Hospitals Corporation, Bellevue Hospital Center And Maria Del Pilar Ruiz (Coordinating Manager) And Edie Coleman (Director) As Aider And Abettors

Respondent denies Complainant claims of sexual harassment and retaliation and avers that its treatment of the Complainant is due to lawful business related issues.

The evidence gathered during the course of the investigation of the instant complaint is not sufficient to support the complainant's allegations that he was sexually harassed and retaliated against for complaining.

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The record shows that prior to the complainant filing the instant complaint alleging sexual harassment he was already having performance problems. The record also shows that prior to the instant complaint and after the acts of sexual harassment are alleged to have occurred; the complainant filed a

Determination: Dismissal No Probable Cause
SDHR Case No. 79439B2

Carlos M. Viguera V. N.Y.C. Health And Hospitals Corporation, Bellevue Hospital Center And Maria Del Pilal Ruiz (Coordinating Manager) And Edie Coleman (Director) As Alder And Abettors

discrimination complaint charging the same individuals with discriminating against him because of his age, sex, national origin, race and retaliation for filing an internal complaint. In his initial complaint, the complainant did not mention sexual harassment. A reasonable person may be obligated to conclude that it is highly improbable that someone asserting all these named bases would fail to include sexual harassment. Complainant's explanation that he was afraid that no one would believe him because he is a man; the record support that the complainant is very vocal when defending what he believes are wrongs done to him.

The complainant also charges that Ms. Ruiz "punched" him either in his ribs or his back. Again, this occurred in his office where there were no witnesses to the alleged act. The record shows that after this alleged incident, the complainant summoned the police who declined to pursue the charges. The complainant then filed a complaint against the police officer with the Civilian Review Board.

The record also shows that the complainant was previously suspended for performance issues and this suspension was upheld by the trier of facts in a Step II grievance. During the hearing there was testimony to the effect that others had to complete some of the complainant's work. Witness Yesenia Torres admitted that she was given some of complainant's work to finish when the complainant could not. This witness also stated that the complainant had confided to her that he thought that Ms. Ruiz "like him more than as a friend." Although the complainant appears to allege that he did not, the evidence adduced support that prior to Ms Ruiz being promoted, they would socialize by going out to lunch together. The witness also stated that the complainant was not an accountant, but an auditor and when he was transfer too the unit he did not have accounting experience.

The respondent has advanced non-discriminatory, business related reasons for the actions taken against the complainant. Such reason is not found to be a pretext for the respondent to discriminate against the complainant. The Complainant continues to work for the respondent.

The complaint is therefore ordered dismissed and the file is closed.

Determination: Dismissal No Probable Cause
SDHR Case No. 7941982

Carlos M. Viguera V. N.Y.C. Health And Hospitals Corporation, Bellevue
Hospital Center And Maria Del Pilar Ruiz (Coordinating Manager) And Edie
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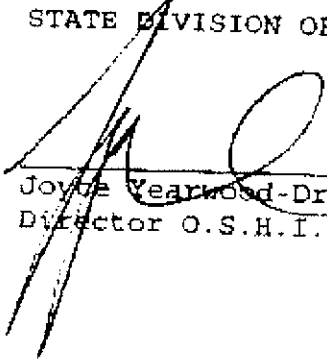
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Dated: 3/31/06
Brooklyn, New York

STATE DIVISION OF HUMAN RIGHTS

By:


Joyce Yearwood-Drury
Director O.S.H.I.

STATE OF NEW YORK: EXECUTIVE DEPARTMENT
STATE DIVISION OF HUMAN RIGHTS

EXEC. LAW ART. 15
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TITLE VII: Federal Charge No: 16GA409174

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Date most recent or continuing discrimination took place 01/29/04.

The particulars are:

1. I am male, I was sexually harassed and I was discriminated because I Opposed Discrimination.
2. I worked for the Respondent Sr. Health Care Program Planning Analyst from May 1989 to Present. My time and attendance as well as my work performance were satisfactory.
3. On or about January 2003 and thereafter, Respondent's Coordinator Manager Maria del Pilar Ruiz began to sexually harass me. The sexual harassment includes but was not limited to Respondent's Coordinator Ruiz would ask me to go to her home to eat salmon, she ask me to wait for her after works to socialize. She would stand next to me and move her body in a provocative manner. I tried to ignore her for the longest just because she was my boss. *Carlos Ruiz's friend*
4. On January 15, 2004, I was in the restroom undressed, doing my personal need, and Ms Ruiz, opened the door of the restroom and entered inside to call me for performance evaluation session with

Complaint: Title VII (INT.2) (1 of 2)

/rga

01/30/04

SDHR NO: 98-E-OS-04-7943982-E

FEDERAL CHARGE NO: 16GA409174

Edie Coleman, Director of Grants Reporting Unit. I complained to Ms Coleman about Ms Ruiz sexual behaviors to no avail. I do not know how Ms Ruiz managed to open the door from the outside. However, the door could be easily open from the outside with a coin.

5. Since I complained to Ms Coleman about Ms Ruiz sexual behaviors, Ms Ruiz began to question the quality of my daily work production. I never have problems with my work performance in the past. I believe that the sole reason why Mr Ruiz is attacking my work performance is because I objected to her sexual advances.

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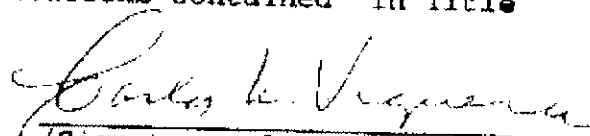
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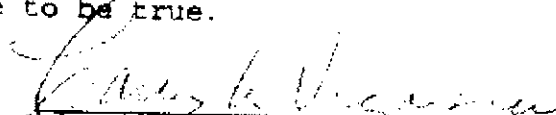
" I have not commenced any other civil or criminal action, nor do I have an action pending before any administrative agency under any other law of this state based upon this same unlawful discriminatory practice."

I also charge the above-named respondent(s) with violating Title VII of the Civil Rights Act of 1964, as amended (covers race, color, creed, national origin, sex relating to employment) and hereby authorize SDHR to accept this verified complaint on behalf of EEOC subject to the statutory limitations contained in Title VII.

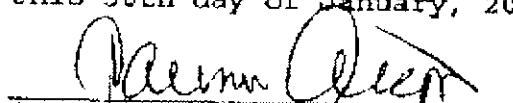

(Signature of Complainant)

STATE OF NEW YORK)
COUNTY OF Kings) §:

Carlos M. Viguera, being duly sworn, deposes and says: that he/she is the complainant herein; that he/she has read (or had read to him/her) the foregoing complaint and knows the content thereof; that the same is true of his/her own knowledge except as to the matters therein stated on information and belief; and that as to those matters, he/she believes the same to be true.


(Signature of Complainant)

Subscribed and sworn to before me
this 30th day of January, 2004


(Signature of Notary Public)

2007

Complaint: Title VII (INT.2) (2 of 2)
/rga
01/30/04

EXHIBIT “D”

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974: See Privacy Act Statement before completing this form.

AGENCY

CHARGE NUMBER

☐ FEPA
☐ EEOC

520-2007-0024

and EEOC

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.)

CARLOS M. VIGUERA

HOME TELEPHONE (Include Area Code)

917-327-0541

STREET ADDRESS

CITY, STATE AND ZIP CODE

1020 GRAND CONCOURSE, APT 4R, BRONX, NY, 10451

DATE OF BIRTH

1-31-50

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

Bellevue Hosp. Corp.

NUMBER OF EMPLOYEES, MEMBERS

4,500

TELEPHONE (Include Area Code)

212-562-4729

STREET ADDRESS

CITY, STATE AND ZIP CODE

562-1st Ave NY, NY 10016

COUNTY

NY

NAME

Sybil NURSE-Reeves

TELEPHONE NUMBER (Include Area Code)

4562-2460

STREET ADDRESS

CITY, STATE AND ZIP CODE

562-1st Ave NY 10016

COUNTY

NY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

☒ RACE ☐ COLOR ☒ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☐ RETALIATION ☒ AGE ☐ DISABILITY ☐ OTHER (Specify)

DATE DISCRIMINATION TOOK PLACE
EARLIEST

LATEST

☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

^{current}
 Retaliation because I File Complaint
 with NYS EEOC. I previous
 History of Discrimination

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the foregoing is true and correct.

Carlos M. Viguera

Date 12/6/06

Charging Party (Signature)

MINNA R. YELLIN

Notary Public, State of New York
NO. 01YE5015305

Qualified in Kings County

Commission Expires 7/10/2009

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Carlos M. Viguera

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (Day, month, and year)

6 12 06

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

New York District Office

33 Whitehall Street, 5th floor

New York, NY 10004

PHONE - (212) 336-3620

FAX - (212) 336-3625

INTAKE QUESTIONNAIRE

(Please type or print legibly)

Date: 12-6-06

Your name: Mr. () Ms. ()

CARLOS R. VIGUERADate Of Birth: 1/31/50Address: 1020 GRAND CONVENT City: BRONX, APT 4RCounty: BRONX State: NY Zip Code: 10451Home phone: ~~917~~ 917-327-0541 Best time to call: ANYTIMEWork phone: (212) 562-2253 Best time to call: 8-4 PMEmail: CARLOS.VIGUERA@JUNO.COM

Employer or organization that you charge with discrimination:

Name: BELLEVUE HOSPITAL CENTERAddress: 562 1ST. AVE. City: NEW YORK State: NYZip Code: 10016 Phone (with area code): 212-562-~~4729~~ 4729What type of business does the employer engage in? HEALTH CARE SERVICENumber of employees: () 1-14 () 15-100 () 101-500 (4) over 500 () unknownJob title: SR. Health CARE Program PLANNER ANALYST Date hired: MAY 1989Salary/Wage: \$ 75,000.00Name of immediate supervisor: SYBIL NURSE-REEVES J. IRENE QUIROSSupervisor's Title: Deputy Director Social Work DepartmentUnit, department or division: Social Worker Dept + Cultural CompetencyNumber of employees in department or division: 3Number of employees with the same job title: NONE

How have you been harmed?

- | | | |
|--|---|---|
| <input type="checkbox"/> Not hired | <input type="checkbox"/> Discharge | <input checked="" type="checkbox"/> Demotion |
| <input type="checkbox"/> Promotion | <input type="checkbox"/> Layoff | <input type="checkbox"/> Other terms of employment |
| <input checked="" type="checkbox"/> Transfer | <input type="checkbox"/> Retirement | <input type="checkbox"/> Accommodation (religion or disability) |
| <input type="checkbox"/> Leave | <input type="checkbox"/> Benefits | <input type="checkbox"/> Other |
| <input type="checkbox"/> Pay | <input checked="" type="checkbox"/> Harassment | |
| <input type="checkbox"/> Discipline | <input checked="" type="checkbox"/> Sexual harassment | |

Date of Harm: up until 12/5/06

I believe that I was discriminated against on account of:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Race: _____ | <input type="checkbox"/> Pregnancy |
| <input type="checkbox"/> Color: _____ | <input type="checkbox"/> Religion: _____ |
| <input checked="" type="checkbox"/> National Origin: _____ | <input type="checkbox"/> Disability |
| <input checked="" type="checkbox"/> Gender: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female | <input checked="" type="checkbox"/> Retaliation for having complained about discrimination. |
| <input checked="" type="checkbox"/> Age (40 years or over) | |

If you believe you were discriminated against because of a disability, state:

Brief description of disability: _____

How long the disability will last: _____

How the disability limits you in essential daily activities (such as breathing, concentrating, sleeping, seeing, walking, lifting, and so on):

Please give a brief description of your complaint and why you feel you were discriminated against: ~~the~~ Together with the current Retaliation

As a Member of Bellevue Hospital Center (BHC) I filed a Complaint EEOC Charge # 169-2004-09174 with the State of New York EEOC (which I feel that New York State EEOC MISSED handling). Since I filed the Complaint Against Bellevue for Gender, Sexual Harassment, Assault by my Supervisor, Age & Ethnical Discrimination, Bellevue has been transferring me from one Department to another. In every Department I have been Harassed. It started with Edie Coleman & Ms. Maria Ruiz in the Grant Reporting Department, and is now taking place with Ms. Irene Quinones, Sybil Nurse-Reeves and Ms. Irene Torres.

Ms. Irene Quinones verbally degraded me & psychologically abused me by taking all my responsibilities away because I asked her not to abuse me. ~~Then~~ ~~She~~ Ms. Quinones said to me that I was asking her not to mistreat me.

When I asked Ms. Quinones not to mistreat me, she said that I was asking her that because she was a woman & I was a man. And she started to move her head & point at me with her finger in a very threatening manner. Then, because ~~she~~ I did not want to come out of the labor union,

she took my Supervisor responsibilities away & made me a Client Navigator. Navigator stands in front of a Hospital main entrance all day long giving directions & pushing wheel chairs. Client Navigator is not my title. My title is Sr. Health Care Program Planning Analyst. There is a much higher level position in the Hospital.

GIVEN me a job evaluation that Needs Improvement with Every Category Indicator Negative. IN THE EVALUATION discriminated me because of my SPANISH DOMINICAN REPUBLIC ACCENT. IN THE EVALUATION ~~me~~ MS. QUINONES CRITICIZED my VERBAL ACCENT in writing. MS. QUINONES is From Puerto Rico. MS. IRENE TORRES her boss is From Puerto Rico & MS. SYBIL NURSE-REEVES is AFRICAN AMERICAN. ~~me~~ I was assisting MS. QUINONES. I WAS a JACK OF ALL TRAY in the Department. I was Sourcing, A MS. ANA BLANCO & MS. JIN MA the other two members of the Department and both MS. BLANCO & MS. MA obtained a perfect EVALUATION. I HAVE a MASTER Degree (MBA, From NYU) & I HAVE 28 YEARS OF FINANCIAL ANALYSES & ADMINISTRATION EXPERIENCE IN THE PRIVATE & PUBLIC SECTOR.

Presently, MS. SYBIL NURSE-REEVES HAS TAKEN the Leadership in the HARASSMENT & DISCRIMINATION. Every DAY AT 3:30 PM Before I Leave, Ms. Reeves DEMORALIZE me by needlessly CRITICIZING my work & PICKING on INSIGNIFICANT details. I AM NOT a SOCIAL WORKER, But because MS. Reeves MADE 40 SOCIAL WORKERS Resigned, MS. Reeves HAS me doing a 30 DAYS Readmission Survey. I HAVE to go to ALL the Room & See ALL the SICK patient & Fill OUT a FORM. This is not difficult, But MS. Reeves PUT PRESSURE on me on numbers & that is HOW MANY of Survey Did you collect. MS. Reeves belittle me & ~~Spank~~ yell at me & CHARGES the objective & ~~specification~~ forms of the Survey every time I turn around. It is MS. Reeves who is in the Hospital Room & in front of people.

Identify any witnesses who will provide evidence to support your allegations:

Name: Ms. D.A. BLANCO

Name: MS. YESSONIA TORRES

Home phone: (347) 683-2499

Home phone: (718) 545-1281

Work phone: (212) 362-2404

Work phone: ()

Address: _____

Address: _____

MS. SATURN SANCHEZ is another witness

Nature of the evidence they will provide:

He will provide eye witnesses of mistreatment of verbal aggression, harassment, demotion of duties, difference in treatment between gender, physical assault by supervisor, frustration of work statement & eye witnesses of sexual harassment in the past year

Have you sought assistance from any other State, local, or Federal government agency, union, attorney or other source? ☒ Yes ☐ No

Name of source of assistance: NYCITY & New York State EEOC

Results, if any: NO AVAIL. AFTER 2 YEARS & A GREAT YEAR OF INVESTIGATION, THE NY STATE SEXUAL HARASSMENT & DISCRIMINATION CHANGED THE INVESTIGATOR THAT WAS

Have you filed an EEOC charge in the past? No ☐ Yes ☒ SUPPORTIVE OF ME

If yes, provide: Date filed Dec 30, 04 Charge number 166-2004-09174 MS. CYRILIA HENDEZA

Organization charged BELLEVUE HOSPITAL CENTER WAS SWITCHED FOR MR. RODRIGUE

How did you hear about the EEOC?

[e.g., newspaper article, attended EEOC seminar, radio/TV (when, what station), friend/relative, lawyer, union, government agency]: FROM

MS. TANTA TAYLOR & MS. YESSONIA TORRES who are also file a complaint in your Agency, also against Eddie Colon & Bellevue.

NYSEEC
Sided with Bellevue Hospital Center.

I did not push & I wanted BAC to be inserted with FED because I did not have money

Provide the name of an individual at a different address whom we can contact if we are unable to reach you:

Name: CARMEN VIGUERA

Address: 8600 Shorefront Parkway, FAR Rockaway
APT 7M
Queens, N.Y.

Relationship: SISTER

Phone: (718) 945-1376

Filling out this form does not constitute filing a charge

Attach copies of any documents you believe would support your discrimination claim

IMPORTANT NOTE:

(This form is covered by the Privacy Act of 1974, Public Law 93-579. Authority for requesting the personal data and the uses thereof are given below.)

FORM NUMBER/TITLE/DATE: EEOC FORM 233, INTAKE QUESTIONNAIRE.

AUTHORITY: 42 U.S.C. 2000e-6(b), 29 U.S.C. Section 626.

PRINCIPAL PURPOSE: The purpose of this questionnaire is to solicit information to enable the Commission to avoid the intake of matters not within its jurisdiction.

ROUTINE PURPOSES: Information provided on this form will be used by Commission employees to determine the existence of facts relevant to a decision as to whether the Commission has jurisdiction over potential charges, complaints or allegations of employment discrimination and to provide such pre-charge filing counseling as is appropriate. Information provided on this form may be disclosed to other EEOC, local and federal agencies as may be appropriate or necessary to carry out the Commission's functions. This would include employment practices laws. Information may also be disclosed to Charging Parties in consideration of or connection with litigation.

WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL FOR NOT PROVIDING INFORMATION: The providing of this information is voluntary but the failure to do so may hamper the Commission's investigation of a charge of discrimination. It is not mandatory that this form be used to provide the requested information.

Keep a copy of your completed questionnaire and other documents that you send

I declare (certify, verify or state) under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Date: 12/6/06

Signature: Carmen M. Viguera

Print name: CARMEN M. VIGUERA

EXHIBIT “E”

BELLEVUE H.R. DEPT. Fax: 212-562-6137

JUN 27 2007 12:23pm PD10

EEOC Form 181 (2-95)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Carlos Viguera
1020 Grand Concourse
Bronx, NY 10451

From: New York District Office
33 Whitehall Street
5th Floor
New York, NY 10004



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(e))

EEOC Charge No.

EEOC Representative

Telephone No.

520-2007-01024

William Lai,
Supervisory Investigator

(212) 336-3676

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.



While reasonable efforts were made to locate you, we were not able to do so.



You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

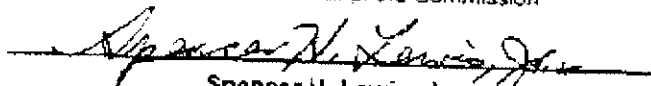
(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

Enclosures(s)


Spencer H. Lewis, Jr.,
Director

6/31/07
(Date Mailed)

cc: BELLEVUE HOSPITAL CENTER
Ms. Shirley Facey, EEO Coordinator
562 1st Avenue
New York, NY 10016